

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lawrence Bruno and Melissa Bruno,

Plaintiffs,

v.

DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR GSR
MORTGAGE LOAN TRUST 2007-AR1
MORTGAGE PASS-THROUGH
CERTIFICATES SERIES 2007-AR1;
RESIDENTIAL FUNDING COMPANY, LLC,
PNC BANK FKA NATIONAL CITY
MORTGAGE, OCWEN LOAN SERVICING,
LLC, AND DOES 1-100, INCLUSIVE,

Defendants.

Docket No. 18-CV-07348

**ANSWER AND AFFIRMATIVE
DEFENSES**

Defendant PNC Bank, N.A., improperly pled as PNC Bank FKA National City Mortgage (“Defendant”), by and through its attorneys, LeClairRyan PLLC, as its answer to the Plaintiffs’ complaint, hereby states as follows:

1. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Complaint.
2. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Complaint.
3. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Complaint.
4. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Complaint as same call for conclusions of law, and respectfully refers all questions of law to the Court for determination.

5. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Complaint as same call for conclusions of law, and respectfully refers all questions of law to the Court for determination.

6. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Complaint.

7. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Complaint.

8. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Complaint.

9. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Complaint.

JURISDICTION

10. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Complaint.

11. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Complaint.

INTRODUCTION

12. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Complaint.

13. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Complaint.

14. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Complaint as same call for conclusions of law, and respectfully refers all questions of law to the Court for determination.

15. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Complaint, denies knowledge and information sufficient to form a belief as the truth of same to the extent that the allegations call for conclusions of law, and denies that Defendant failed to respond to any of Plaintiffs' statements and affidavits as enumerated therein.

16. Defendant denies the allegations contained in Paragraph 16 of the Complaint.

17. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of the Complaint as same call for conclusions of law, and respectfully refers all questions of law to the Court for determination.

18. Defendant denies the allegations contained in Paragraph 18 of the Complaint to the extent that same refer to these Defendant, and denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this Paragraph as same refer to other Defendant herein

19. Defendant denies the allegations contained in Paragraph 19 of the Complaint to the extent that same refer to these Defendant, and denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this Paragraph as same refer to other Defendant herein.

20. Defendant denies the allegations contained in Paragraph 20 of the Complaint.

21. Defendant denies the allegations contained in Paragraph 21 of the Complaint.

22. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22 of the Complaint as same call for conclusions of law, and respectfully refers all questions of law to the Court for determination.

23. Defendant denies the allegations contained in Paragraph 23 of the Complaint.

24. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24 of the Complaint as same call for conclusions of law, and respectfully refers all questions of law to the Court for determination.

25. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25 of the Complaint as same call for conclusions of law, and respectfully refers all questions of law to the Court for determination.

26. Defendant denies the allegations contained in Paragraph 26 of the Complaint.

DEFECTS IN SECURITIZATION

27. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27 of the Complaint.

28. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28 of the Complaint.

29. Defendant denies the allegations contained in Paragraph 29 of the Complaint.

30. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 30 of the Complaint as same call for conclusions of law, and respectfully refers all questions of law to the Court for determination.

31. Defendant denies the allegations contained in Paragraph 31 of the Complaint.

32. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 32 of the Complaint.

33. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 33 of the Complaint.

34. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 34 of the Complaint.

35. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 35 of the Complaint.

36. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 36 of the Complaint.

37. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 37 of the Complaint.

38. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 38 of the Complaint.

39. Defendant denies the allegations contained in Paragraph 39 of the Complaint to the extent that same refer to these Defendant, and denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this Paragraph as same refer to other Defendant herein.

40. Defendant denies the allegations contained in Paragraph 40 of the Complaint to the extent that same refer to these Defendant, and denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this Paragraph as same refer to other Defendant herein.

41. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 41 of the Complaint.

42. Defendant denies the allegations contained in Paragraph 42 of the Complaint to the extent that same refer to this Defendant, and denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this Paragraph as same refer to other Defendant herein.

FACTUAL ALLEGATIONS

43. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 43 of the complaint to the extent that certain terms therein call for conclusions of law, except admits that PNC's predecessor in interest extended a mortgage loan to Defendant.

44. Defendant denies the allegations in Paragraph 44 of the Complaint which allege that the Note was not properly transferred and denies knowledge and information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 44 of the Complaint.

45. Defendant denies the allegations contained in Paragraph 45 of the Complaint.

46. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 46 of the Complaint.

47. Defendant denies the allegations contained in Paragraph 47 of the Complaint.

48. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48 of the Complaint.

49. Defendant denies the allegations contained in Paragraph 49 of the Complaint.

50. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 50 of the Complaint.

51. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 51 of the Complaint.

52. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 52 of the Complaint.

53. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 53 of the Complaint.

54. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 54 of the Complaint.

55. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 55 of the Complaint.

56. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 56 of the Complaint.

57. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 57 of the Complaint as same call for conclusions of law, and respectfully refers all questions of law to the Court for determination.

58. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 58 of the Complaint and refers the Court to the document cited therein for its true meaning and import.

59. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 59 of the Complaint.

60. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 60 of the Complaint.

61. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 61 of the Complaint.

FIRST CAUSE OF ACTION

62. Defendant repeats and realleges each of the foregoing responses as if fully set forth herein denies.

63. Defendant denies the allegations contained in Paragraph 63 of the Complaint.

64. Defendant denies the allegations contained in Paragraph 64 of the Complaint.

65. Defendant denies the allegations contained in Paragraph 65 of the Complaint.

66. Defendant denies the allegations contained in Paragraph 66 of the Complaint.

67. Defendant denies the allegations contained in Paragraph 67 of the Complaint.

68. Defendant denies the allegations contained in Paragraph 68 of the Complaint.

69. Defendant denies the allegations contained in Paragraph 69 of the Complaint.

70. Defendant denies the allegations contained in Paragraph 70 of the Complaint.

71. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 71 of the Complaint.

72. Defendant denies the allegations contained in Paragraph 72 of the Complaint.

73. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 73 of the Complaint as same call for conclusions of law, and respectfully refers all questions of law to the Court.

74. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 74 of the Complaint as same call for conclusions of law, and respectfully refers all questions of law to the Court.

75. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 75 of the Complaint as same call for conclusions of law, and respectfully refers all questions of law to the Court.

76. Defendant denies the allegations contained in Paragraph 76 of the Complaint.

77. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 77 of the Complaint.

78. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 78 of the Complaint.

79. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 79 of the Complaint.

80. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 80 of the Complaint.

81. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 81 of the Complaint.

82. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 82 of the Complaint.

83. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 83 of the Complaint.

84. Defendant denies the allegations contained in Paragraph 84 of the Complaint.

85. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 85 of the Complaint as same call for conclusions of law, and respectfully refers all questions of law to the Court.

86. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 86 of the Complaint.

87. Defendant denies the allegations contained in Paragraph 87 of the Complaint.

88. Defendant denies the allegations contained in Paragraph 88 of the Complaint.

89. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 89 of the Complaint as same call for conclusions of law, and respectfully refers all questions of law to the Court.

90. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 90 of the Complaint.

91. Defendant denies the allegations contained in Paragraph 91 of the Complaint.

92. Defendant denies the allegations contained in Paragraph 92 of the Complaint.

93. Defendant denies the allegations contained in Paragraph 93 of the Complaint.

94. Defendant denies the allegations contained in Paragraph 94 of the Complaint.

SECOND CAUSE OF ACTION

95. Defendant repeats and realleges each of the foregoing responses as if fully set forth herein denies.

96. Defendant denies the allegations contained in Paragraph 96 of the Complaint.

97. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 97 of the Complaint.

98. Defendant denies the allegations contained in Paragraph 98 of the Complaint.

99. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 99 of the Complaint.

100. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 100 of the Complaint.

101. Defendant denies the allegations contained in Paragraph 101 of the Complaint.

102. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 102 of the Complaint.

103. Defendant denies the allegations contained in Paragraph 103 of the Complaint.

THIRD CAUSE OF ACTION

104. Defendant repeats and realleges each of the foregoing responses as if fully set forth herein.

105. Defendant denies the allegations contained in Paragraph 105 of the Complaint.

106. Defendant denies the allegations contained in Paragraph 106 of the Complaint.

107. Defendant denies the allegations contained in Paragraph 107 of the Complaint.

108. Defendant denies the allegations contained in Paragraph 108 of the Complaint.

109. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 109 of the Complaint as same call for conclusions of law.

110. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 110 of the Complaint as same call for conclusions of law.

FOURTH CAUSE OF ACTION

111. Defendant repeats and realleges each of the foregoing responses as if fully set forth herein.

112. Defendant denies the allegations contained in Paragraph 112 of the Complaint.

113. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 113 of the Complaint.
114. Defendant denies the allegations contained in Paragraph 114 of the Complaint.
115. Defendant denies the allegations contained in Paragraph 115 of the Complaint.
116. Defendant denies the allegations contained in Paragraph 116 of the Complaint.
117. Defendant denies the allegations contained in Paragraph 117 of the Complaint.
118. Defendant denies the allegations contained in Paragraph 118 of the Complaint.
119. Defendant denies the allegations contained in Paragraph 119 of the Complaint.
120. Defendant denies the allegations contained in Paragraph 120 of the Complaint.
121. Defendant denies the allegations contained in Paragraph 121 of the Complaint.
122. Defendant denies the allegations contained in Paragraph 122 of the Complaint.
123. Defendant denies the allegations contained in Paragraph 123 of the Complaint.

FIFTH CAUSE OF ACTION

124. Defendant repeats and realleges each of the foregoing responses as if fully set forth herein.
125. Defendant denies the allegations contained in Paragraph 125 of the Complaint.
126. Defendant denies the allegations contained in Paragraph 126 of the Complaint.
127. Defendant denies the allegations contained in Paragraph 127 of the Complaint.
128. Defendant denies the allegations contained in Paragraph 128 of the Complaint.
129. Defendant denies the allegations contained in Paragraph 129 of the Complaint.
130. Defendant denies the allegations contained in Paragraph 130 of the Complaint.
131. Defendant denies the allegations contained in Paragraph 131 of the Complaint.

SIXTH CAUSE OF ACTION

132. Defendant denies information and knowledge sufficient to form a belief as to the allegations contained in Paragraph 132 of the Complaint, except admits that PNC's predecessor in interest offered a mortgage loan to Plaintiffs.

133. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 133 of the Complaint

134. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 134 of the Complaint.

135. Defendant denies the allegations contained in Paragraph 135 of the Complaint.

136. Defendant denies the allegations contained in Paragraph 136 of the Complaint.

137. Defendant denies the allegations contained in Paragraph 137 of the Complaint.

138. Defendant denies the allegations contained in Paragraph 138 of the Complaint.

139. Defendant denies the allegations contained in Paragraph 139 of the Complaint.

SEVENTH CAUSE OF ACTION

140. Defendant repeats and realleges each of the foregoing responses as if fully set forth herein.

141. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 141 of the Complaint.

142. Defendant denies the allegations contained in Paragraph 142 of the Complaint.

143. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 143 of the Complaint.

144. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 144 of the Complaint.

145. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 145 of the Complaint.

146. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 146 of the Complaint.

147. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 147 of the Complaint.

148. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 148 of the Complaint.

149. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 149 of the Complaint.

150. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 150 of the Complaint.

151. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 151 of the Complaint.

EIGHTH CAUSE OF ACTION

152. Defendant repeats and realleges each of the foregoing responses as if fully set forth herein.

153. Defendant denies the allegations in Paragraph 153 of the Complaint.

154. Defendant denies the allegations in Paragraph 154 of the Complaint.

155. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 155 of the Complaint.

156. Defendant denies the allegations contained in Paragraph 156 of the Complaint.

157. Defendant denies the allegations contained in Paragraph 157 of the Complaint.

158. Defendant denies the allegations contained in Paragraph 158 of the Complaint.

NINTH CAUSE OF ACTION

159. Defendant repeats and realleges each of the foregoing responses as if fully set forth herein..

160. Defendant denies knowledge and information sufficient to form a belief as to the allegations in Paragraph 160 of the Complaint as same call for conclusions of law, and respectfully refer all matters of law to the Court.

161. Defendant denies the allegations contained in Paragraph 161 of the Complaint.

162. Defendant denies the allegations contained in Paragraph 162 of the Complaint.

163. Defendant denies the allegations contained in Paragraph 163 of the Complaint.

164. Defendant denies the allegations contained in Paragraph 164 of the Complaint.

165. Defendant denies the allegations contained in Paragraph 165 of the Complaint.

TENTH CAUSE OF ACTION

166. Defendant repeats and realleges each of the foregoing responses as if fully set forth herein..

167. Defendant denies the allegations in Paragraph 167 of the Complaint.

168. Defendant denies the allegations in Paragraph 168 of the Complaint.

169. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 169 of the Complaint.

170. Defendant denies the allegations in Paragraph 170 of the Complaint.

171. Defendant the allegations contained in Paragraph 171 of the Complaint.

172. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 172 of the Complaint.

PRAYER FOR RELIEF

Defendant denies that Plaintiff s are entitled to any damages, restitution, fees, costs or other relief from PNC.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

Each of the Causes of Action in the Complaint fails to state a claim against the Defendant upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred as they are not raised in the proper forum.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred since Plaintiffs failed to perfect an appeal in the foreclosure action.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or in part by the doctrine of contributory negligence.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the statute of frauds and/or parol evidence rule.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the doctrine of unjust enrichment.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

Any damages sustained by Plaintiffs were caused by the acts and/or omissions of third parties not under Defendant's control.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

Any damages sustained by Plaintiffs are a result of Plaintiffs' own acts and/or omissions.

AS AND FOR AN NINTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to mitigate any damages which they allege to have suffered.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by their material breach of the applicable account and/or loan agreement and related documents.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the doctrine of ratification.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to state a claim for actual damages, costs, statutory or liquidated damages.

AS AND FOR AN THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiffs are not entitled to attorneys' fees, costs and disbursements herein.

AS AND FOR AN FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the doctrines of laches, waiver, and estoppel.

AS AND FOR AN FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the doctrine of unclean hands.

AS AND FOR AN SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the doctrine of *res judicata*.

AS AND FOR AN SEVENTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the doctrine of collateral estoppel.

Defendant reserves the right to assert additional affirmative defenses as they become known.

WHEREFORE, Defendant respectfully request judgment against Plaintiffs as follows:

A. Awarding Defendant a judgment of dismissal against Plaintiffs' Complaint in its entirety with prejudice; and

B. Awarding the Defendant their costs and disbursements of this action including reasonable attorney fees; and

C. For such other and further relief that this Court deems just and proper.

Dated: New York, New York
April 11, 2019

LECLAIRRYAN, PLLC

By: 

Brandon L. Wolff, Esq.
885 Third Avenue, 16th Floor
New York, NY 10022
Tel.: (212) 634-5035
Fax: (212) 634-5038
Email: brandon.wolff@leclairryan.com

Attorneys for Defendant PNC Bank, N.A.